

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

CHRIS OLSEN

PLAINTIFF

V.

NO. 4:06CV01620 JMM

TOM HINRICHS

DEFENDANT

ORDER

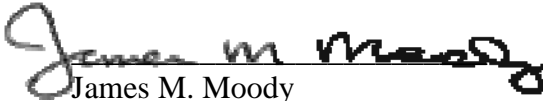
Pending is Defendant's motion to stay. (Docket # 12). Plaintiff has responded. There are currently two actions filed between Plaintiff and Defendant. Plaintiff, Chris Olsen filed suit herein on November 17, 2006 and Defendant, Tom Hinrichs filed another action in the United States District Court, Southern District of California on November 20, 2006. Defendant asks the Court to stay the Arkansas action while the California action proceeds. Plaintiff has responded and objects to a stay.

"The well-established rule is that in cases of concurrent jurisdiction, 'the first court in which jurisdiction attaches has priority to consider the case.'" *See, Anheuser-Busch, Inc. v. Supreme Intern, Corp.*, 167 F. 3d 417 (8th Cir. 1999), *citing, United States Fire Ins. Co. v. Goodyear Tire & Rubber Co.*, 920 F.2d 487, 488 (8th Cir.1990) (quoting *Orthmann v. Apple River Campground Inc.*, 765 F.2d 119, 121 (8th Cir.1985)). Plaintiff's action was filed November 17, 2006, service has been obtained, Defendant has filed an answer and an initial scheduling order has been issued. In contrast, Defendant's action was filed November 20, 2006 and service has not yet been obtained.

In light of these facts, the Court finds that the case should proceed in Arkansas as the Arkansas case was the first filed and no compelling circumstances exist which would require an

exception to this well established rule. Accordingly, Defendant's motion to stay is denied.

IT IS SO ORDERED this 12th day of January, 2007.


James M. Moody
United States District Judge